

PUBLIC EMPLOYEES' RETIREMENT BOARD
100 N Park, Rm 218
Helena MT 59620

Board Legislative Committee Minutes
Tuesday, January 25, 2011
10:30 am

Committee Members (present via telephone):

Dianna Porter, Chair
John Nielsen
Terrence Smith

Other Board Members (present via telephone):

Darcy Halpin
Patrick McKittrick
Scott Moore
Timm Twardoski

Staff:

Roxanne Minnehan
Melanie Symons
Barbara Quinn
Patricia Davis
Mike O'Connor
Jenny Weigand
Flora Sebens

I. Roll Call

II. Public/Member Comment – No public comment.

III. Approval of Legislative Committee Meeting Minutes

The minutes of the Board Legislative Committee meeting of January 25, 2011 were presented.

Motion: Committee Board Member Terrence Smith moved to approve the minutes of the January 25, 2011 Board Legislative Committee meeting.

Second: Committee Board Member John Nielsen

Vote: 3/0

IV. PERB Legislation

Meetings with Leadership Updates

A. [HB 70 \(LC0160\)](#) – General Revisions Bill – Representative Mike Menahan

This bill is on hold for Executive Action in the House State Administration. Ms. Minnehan stated that she was unsure why it was on hold and could only guess that it

might be because they do not fully understand the bill and they might not realize there are not any huge ramifications to this bill if it passes. It is just a general revision bill.

B. HB 119 (LC0161) – VFCA Revision Bill(Revise laws related to volunteer firefighters compensation) – Representative Gordon Hendrick

This bill is scheduled to have its 3rd reading on the Floor today.

C. HB 85 (LC0162) – Working Retiree Bill – PERS, SRS, FURS – Representative Franke Wilmer

This bill is on hold for Executive Action in the House State Administration.

D. HB 122 (LC0407) – PERS Funding Bill(Provide for benefit and funding changes to public employees retirement system) – Representative Sue Malek

Representative Malek has indicated that this bill will be heard February 1, 2011, in the morning. Chairwomen Porter mentioned that it had been discussed at our last Committee Meeting that we were going to try and rally some support for this bill and asked if the staff had made any progress in this endeavor yet. Ms. Minnehan stated that they have posted information in her blog on the website, as well as on our Facebook profile, but to date nothing has come from it.

Chairwoman Porter stated that she and Member Terry Smith plan on being at the hearing. Members John Nielson, Patrick McKittrick and Darcy Halpin cannot attend. Ms. Minnehan indicated that she is drafting a letter from the Board to present at the hearing and it was agreed that Member Terry Smith would read the letter and if he was unable to attend the hearing then Chairwoman Porter would read it. Each Board member present at the hearing will also be acknowledged by Representative Malek.

It was agreed that next week's Legislative Committee Meeting would be on Tuesday, February 1st at 1:00 p.m. instead of 10:30 a.m., due to the hearing.

E. HB 134 (LC0405) – GWPORS Funding Bill – Representative Carolyn Squires

This bill is on hold for Executive Action in the House State Administration.

F. HB 135 (LC0406) – SRS Funding Bill – Representative Carolyn Squires

This bill is on hold for Executive Action in the House State Administration.

Chairwoman Porter asked if the Board should be concerned that these bills were on hold and Ms. Minnehan responded that Representative Squires requested that they be put on hold because she knew there were a lot of other retirement bills yet to be heard and she wanted the committee to hear all of them before making a final decision. It was suggested that Ms. Minnehan talk to Representative Ingraham about why some of the bills are on hold and she agreed and stated that it would also give her a chance to reiterate that House Bill 70 would be a good one to start moving forward on.

V. HB 197 (LC1361) – Constitutional amendment allowing legislature to change retirement plans – Representative Brian Hoven

Ms. Minnehan had initially heard that this bill was not coming out but at 5:00 it was posted for hearing the next morning. Ms. Symons received a phone call from a retiree

that stated he was going to speak at this hearing about equal protection violations, a new tax on retirees, and how unfair this bill was and that he really wanted to protect his retirement. Ms. Symons felt that word about this bill was getting out amongst retirees and expected quite a few people will attend the hearing to oppose it. This bill is going to require 2/3 of the total body of the house and the senate to get it on the referendum (a total of 100 votes). Mr. O'Connor explained to the Board that their responsibility is to administer the plan. The plan document states there is a contract, so as far as the Board is concerned that is how they must administer the plan. The white paper that Ms. Symons has drafted is an example of how the Courts look at this subject, but Mr. O'Conner reiterated that the Board can only go by what the plan says.

Ms. Minnehan asked the committee to take a position on this particular bill.

Motion: Committee Board Member Terrence Smith moved to oppose House Bill 197.

Second: Committee Board Member John Nielsen

Vote: 3/0

Rationale: This is not appropriate for the Montana Constitution. Also, the US Constitution still applies.

White Paper – Ms. Symons completed a first draft of the White Paper and the Board indicated they needed more time to review it and they would discuss it at next week's meeting.

MPERA Board Member, Timm Twardoski, has contacted AFSCME National to find out what legal research has been done in terms of contract rights. Gathering the information will take time and Mr. Twardoski will pass along any information he receives.

VI. Other Retirement Legislation

HB238 –*Revise membership of Public Employees' Retirement Board –Representative Bill McChesney*

This bill was heard this morning. Ms. Minnehan felt that the sponsor and AMRPE did a good job of stating their position and indicated that she and the firefighters were the only ones who opposed it. Mr. Matt Norby testified on behalf of the firefighters because the bill limits the retirees to PERS. Ms. Minnehan further explained that the committee had a lot of questions and that Representative Connell suggested making an amendment to change the language of bill from "PERS retirees" to the "one PERS retiree and a retire from any other system administered by the Board." The sponsor was agreeable to that amendment. Representative Skees then suggested reducing the active representatives to two members and give one of the other spots to the retiree. Representative McChesney said he would not agree to that amendment.

SB 113 – *Transfer statutory excess retirement funds in trust by school districts to TRS – Representative Larry Jent*

Ms. Minnehan mentioned that this bill was heard on January 19th and we stood as a proponent of this bill, as did the teachers. There was opposition by Linda Bannon from the Montana School Board Association. She stated that these trust funds were necessary for cash flow purposes and insisted that they were legitimate funds that were needed to pay retirement contributions. The committee requested information on the funding levels to determine if the 20% cap that the bill is asking for would still meet their needs for their cash flow purposes. Ms. Bannon is going to supply that information to the committee.

Motion: Committee Board Member Terrence Smith moved to support Senate Bill 113.

Second: Board Member Dianna Porter

Vote: 2/1

HB 328 – *Include dispatchers in sheriffs' retirement system* – Representative Franke Wilmer

This bill was just released and a fiscal note has been requested. The fiscal note is due January 27th. Ms. Minnehan indicated she will watch for when the bills is scheduled for hearing.

VII. Other Related Legislation

- A. **SB 54** – *Establish a hybrid tier in TRS for new hires only* – Representative Joe Balyeat
Senator Shockley stated at this hearing that the Committee needs to get a handle on all of the retirement bills. On Wednesday they are going to spend the afternoon discussing the merits of Senate Bills 54 and 56. Ms. Minnehan felt that this was going to be more of an educational session on retirement and the retirement bills. Ms. Minnehan plans on attending. It was asked if the Teachers Board was supporting either of these bills and Ms. Minnehan responded that they are opposed to both of them.
- B. **SB 56** – *Professional retirement option for new hires into teachers' retirement system* – Representative Larry Jent
See above explanation.
- C. **SB 120 (LC0449)** – *Publishing of Appointed Members to all State Agency Boards* – Representative John Brenden
This bill was heard on Friday, January 21st. Ms. Minnehan stated that they attended the hearing as proponents, as long as the wording was kept as it currently is, allowing the Board to choose which form of contact information to publish. We were the only ones that testified. They took executive action at this hearing and it is now scheduled for the 2nd reading on the floor.
- D. **SB 150 (LC0608)** – *Provide for protection of rights through actions against public officials* – Representative Art Wittich
Ms. Minnehan indicated that we did not attend this hearing, but knew that there were a lot of opponents present. Board Member Timm Twardoski testified against it on

behalf of his organization. Mr. Twardoski does not feel the bill will pass out of Committee.

E. LC1076 – *Revise volunteer firefighter pensions – Representative Ryan Zinke*

The draft of this bill is in assembly and the Executive Director is reviewing it. This bill increases the firefighter's pension and gives the Board authority to increase their pension if there is money.

Motion: Committee Board Member Terrence Smith moved to oppose LC1076.

Second: Chairwoman Diann Porter

Vote: 3/0

Rationale: The Board feels the authority to revise benefits should stay with the Legislature.

Hybrid Plan

A discussion took place regarding the Utah hybrid plan. Mr. O'Connor mentioned that he had put together a document that compared the current PERS plan to the hybrid plan and agreed to email this document to the Board members. Utah has been working on this hybrid plan for several years now and the Board has concerns that it is already being presented in the Montana Legislature with very little research on what the full implications could be if it passed. Member Terry Smith asked if our actuary has reviewed the plan yet and Ms. Minnehan responded that she has discussed it with him, but he has not performed an official review of it yet.

Motion: Committee Board Member Terrence Smith moved to have our actuary cost the impact of closing the PERS DB Plan.

Second: Member John Nielson

Vote: 3/0

Future Bills To Watch

LC1242 – *Generally revise retirement systems laws – Representative Wayne Stahl*

This bill was just been taken off hold on January 21, 2011. Representative Wayne Stahl is proposing a 5% annuity, eliminating the retirement Boards in favor of privatization.

LC1244 – *Revise laws relating to state-tribal coop agreements act and PERS – Representative Jon Sonju*

This bill is in proofreading right now. Ms. Symons mentioned that this is the same bill as bill as Representative Terry Murphy's bill. Representative Smith failed to pick up his bill, therefore it died.

LC2011 – *Revise monthly pension payable to volunteer firefighter – Representative Bill Beck*

The initial draft of this bill is ready for delivery to the requester. This bill addresses relief associations and does not impact the Board's systems.

LC2015 – *Revise qualifications for firefighters – Representative Shannon Augare*

The initial draft of this bill is ready for delivery to the requester.

LC2018 – *Require payment of partial salary to injured rural firefighter – Representative Mary McNally*

The initial draft of this bill is in final drafter review.

LC2049 – *Cap defined benefit plan and transfer credit to defined contribution plan – Senator Dave Lewis*

The first draft request has just been received for this bill.

LC2085 – *Revise optional PERS membership for legislators – Senator Art Wittich*

The first draft request has just been received for this bill.

VIII. The meeting was adjourned at 11:30 am by Ms. Dianna Porter, Chair. The next meeting will be on Tuesday, February 1, 2011, at 1:00 p.m. due to the hearing on House Bill 122 that is scheduled to be heard in the morning.